

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

ELIJAH HOGGATT

PETITIONER

VERSUS

CIVIL ACTION NO. 5:04cv293-DCB-JCS

UNITED STATES OF AMERICA

RESPONDENT

**MEMORANDUM OPINION AND ORDER**

This cause is before the Court on the petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [**docket entry 1**] in civil action 5:04cv293.

Hoggatt filed a previous § 2255 motion to vacate, set aside, or correct sentence on March 11, 2002. That previous motion was correctly filed under civil action 5:02cv75 and criminal action 5:99cr7. The government responded to Haggatt's motion on September 13, 2004. Thereafter, Hoggatt filed a reply to the government's response on November 9, 2004, that was erroneously labeled as a new § 2255 motion and given a new civil action number, 5:04cv293. This Court denied Hoggatt's § 2255 motion in civil action 5:02cv75 on March 11, 2005. Thus, civil action 5:04cv293 should also be dismissed with prejudice. Accordingly,

IT IS HEREBY ORDERED that Petitioner Elijah Hoggatt's motion to vacate under 28 U.S.C. § 2255 [**docket entry 1**] in civil action 5:04cv293 is **DISMISSED WITH PREJUDICE**.

SO ORDERED, this the 24<sup>th</sup> day of August, 2005.

S/DAVID BRAMLETTE  
UNITED STATES DISTRICT JUDGE